

REMARKS

Prior to the entry of this amendment, claims 1-39 are pending in the application. Claims 1-39 are rejected. Claims 1, 3, 5, 9, 12, 15, 18, 22, 36-39 are amended herein. Claims 2, 4, 6-8, 10-11, 13-14, 16-17, 19-21 and 23-35 are cancelled. Claims 40-46 are new. The independent claims are claims 1, 36-39 and 45. After the entry of this amendment, claims 1, 3, 5, 9, 12, 15, 18, 22, 36-46 will be pending.

Claim Rejections Under 35 U.S.C. § 101

Claims 1-35 are rejected under 35 U.S.C. § 101 because “data structure” in claims 1, 36 and 37 is considered to be nonfunctional descriptive material. Applicant respectfully traverses this rejection.

Applicants respectfully submit that the Examiner has incorrectly characterized the recording medium as storing nonfunctional descriptive material. The Manual of Patent Examining Procedure (MPEP) provides guidance on the difference between “nonfunctional descriptive material” and “functional descriptive material”. In particular, MPEP § 2106.01 states the following.

In this context, “function descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of “data structure” is “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) “Nonfunctional descriptive material” includes but is not limited music, literary works and a compilation or mere arrangement of data.

Accordingly, Applicants respectfully submit that a “computer readable recording medium having a data structure for managing reproduction of video data recorded on the recording medium” as recited in independent claim 1 is a recording medium storing functional descriptive material.

MPEP §2106.01(I) further states, regarding functional descriptive material, that “a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized, and is thus statutory.” Accordingly, because the computer readable medium recited in claim 10 includes a data structure for managing reproduction of video data recorded on the recording medium, claim 1 is clearly directed towards patentable, statutory subject matter.

In light of the above, Applicants respectfully request that the rejection of independent claim 1, and the claims depending therefrom, under 35 U.S.C. § 101 be withdrawn.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-7, 9, 11, 15, 18-19 and 36-37 are rejected under 35 U.S.C. § 102(e) as being anticipated by Takao (U.S. Patent No. 7,000,246). Applicant respectfully traverses these rejections.

A claim is anticipated only if each and every element as forth in the claim is found, either expressly or inherently described, in a single prior art reference. See MPEP Sec. 2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2D 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir.1987).

Independent claim 1 recites a computer readable recording medium having, among other things, “at least one navigation area storing navigation management information for managing real-time reproduction of multiple reproduction path video data recorded on the recording medium.”

Independent claim 36 recites a method of recording a data structure, the method including, among other things, “recording navigation management information for managing

real-time navigation of multiple reproduction path video data in at least one navigation area of the recording medium.”

Independent claim 37 recites a method of reproducing a data structure including, among other things, “reproducing navigation management information for managing real-time navigation of multiple reproduction path video data.”

Applicant respectfully asserts that the Takao reference does not teach or suggest any of the apparatuses or methods recited in independent claims 1, 36 or 37. Because, for example, the Takao reference does not teach or suggest multiple reproduction path data. The specification of the 10/614,184 application discusses multiple reproduction path data to include different versions of a title such as a movie or portions of a title. For example, see paragraph [0035].

Nowhere in the Takao reference are multiple reproduction path data even discussed, let alone, including them in combinations or methods recited in independent claims 1, 36 or 37. Rather, Takao is directed to a broadcasting system having a “normal” and “special” play-back mode. In some modes, the reproduction of data is interactive [see abstract]. In the interactive mode a user of the system makes various selections to access different data not different versions of data as in multiple reproduction path data. Therefore, Applicant respectfully requests that the rejections of independent claim 1 and its dependent claims and independent claims 36 and independent claim 37 be removed.

Claim Rejections Under 35 U.S.C. § 103

Claims 38-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao ('246) and further in view of Auwens et al. (U.S. Patent No. 6,377,518). Applicant respectfully traverses this rejection.

To establish a case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP 2143.

The case of obviousness has not been made for independent claims 38 and 39. Because, neither the Takao reference nor the Auwens reference, either separately or in combination, teach or suggest an apparatus including all of the elements recited in claim 38 or 39. For example, claim 38 is directed to an apparatus for recording a data structure including, among other things, “a controller for controlling the driver to record the encoded real-time navigation of multiple reproduction path video data.”

Claim 39 recites an apparatus including, among other things, “a controller for controlling the driver to reproduce navigation management information for managing real-time navigation of multiple reproduction path data.” As discussed above, the Takao reference does not discuss or describe multiple reproduction path video data or multiple reproduction path data as recited in claims 38 and 39, let alone, an apparatus including all of the limitations recited in claim 38 and 39.

Further, the Auwens reference does not cure the insufficiencies of the Takao reference. Nowhere in the Auwens reference is there a discussion of multiple reproduction path data, let alone, an apparatus including all the limitations of claim 38 and 39. Because an apparatus including all of the limitations recited in claims 38 and 39 is not found either separately or combining the Takao and the Auwens reference, Applicant respectfully requests that the rejection of claims 38 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Takao in view of Auwens be removed.

Rejections of Dependent Claims Ultimately Depending From Claim 1 Under 35 U.S.C. § 103

Claims 20, 22-23, 25-26 and 28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao ('246) as applied to claims 1-7, 9, 11, 15, 18-19 and 36-37 above, and further in view of Boyle (U.S. Publication No. 2002/0,106,197 A1).

Claims 29-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao ('246) and Boyle ('197) as applied to claims 1-7, 9, 11, 15, 18-20, 22-23, 25-26, 28 and 36-37 above, and further in view of Fujinami (U.S. Patent No. 6,304,717).

Claims 8, 24 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao ('246) and Boyle ('197) as applied to claims 1-7, 9, 11, 15, 18-19, 22-23, 25-26, 28 and 36-37 above, and further in view of Kim et al. (U.S. Patent No. 7, 020,384).

Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao ('246) as applied to claims 1-7, 9, 11, 15, 18-19 and 36-37 above, and further in view of Bestler et al. (U.S. Patent No. 5,602,920).

Claims 12-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao ('246) as applied to claims 1-7, 9, 11, 15, 18-19 and 36-37 above and further in view of Shimoji et al. (U.S. Publication No. 2004/0,088,739 A1).

Claims 16-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao ('246) as applied to claims 1-7, 9, 11, 15, 18-19 and 36-37 above, and further in view of Nakamura et al. (U.S. Patent No. 6,064,796).

Claims 21 and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takao ('246) as applied to claims 1-7, 9, 11, 15, 18-19 and 36-37 above, and further in view of official notice.

All of the above mentioned claims in this section labeled "Rejections of Dependent Claims Ultimately Depending From Claim 1 Under 35 U.S.C. § 103" of the response ultimately

depend from claim 1 or are cancelled. Because claim 1 has been shown to be patentable at least for the reasons cited above, the Applicant respectfully asserts that these claims are patentable at least by reason of their dependency upon claim 1. Therefore, the Applicant respectfully requests that the rejections under 35 U.S.C. § 103(a) be removed and the pending claims depending from claim 1 be allowed.

CONCLUSION

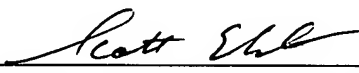
Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of the claims in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By:  55,149
For Terry L. Clark, Reg. No. 32,644

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

TLC/SAE/PAL:eab